

Article 7: Elections, Campaign Finance and Lobbying

Division 8: Procedure for Filling Vacancies in Elective Offices by Appointment

*(“Procedure for Filling Vacancies in Elective Offices by Appointment”
renumbered from Division 31 and retitled on 7-26-1999 by O-18664 N.S.)*

§27.0801 Purpose and Intent

The purpose and intent of this division is to establish an orderly procedure for the *City Council* to follow in making any appointment to an *elective office*; and for all individuals interested in being appointed to the vacant office to follow in presenting their applications for consideration by the *City Council*; and at the same time to allow for public participation in the selection process. If a position is to be filled by appointment, the procedures provided for in this division shall be followed. An appointment to fill a vacancy in any *elective office* shall be made within thirty business days of the date of the vacancy.

(Amended 9-10-2001 by O-18979 N.S.)

§27.0802 Deadline for Filing Application Forms

- (a) If a vacancy exists in the office of a *City Council* district by reason of death or un-excused absences, the deadline for filing application forms with the *City Clerk* shall be fourteen calendar days after the date of the vacancy, as determined by Section 27.0703(b).
- (b) If a vacancy exists or will exist in the office of a *City Council* district by reason of a resignation, the deadline for filing application forms with the *City Clerk* shall be one of the following:
 - (1) If there are at least fourteen calendar days between the time of the publication required by Section 27.0803 and the date of vacancy, the deadline shall be the calendar day before the vacancy occurs;
 - (2) If there are fewer than fourteen calendar days between the publication required by Section 27.0803 and the date of vacancy, the deadline shall be fourteen calendar days after the date of publication.
- (c) If a vacancy exists or will exist in the office of the Mayor or City Attorney, the deadline for filing application forms with the *City Clerk* shall be fourteen calendar days after the date the *City Council* determines that the *elective office* is to be filled by appointment, pursuant to Section 27.0705(a).

(Amended 9-10-2001 by O-18979 N.S.)

§27.0803 Notice to be Published by Clerk

- (a) If a vacancy exists in the office of a *City Council* district, by reason of death or un-excused absences, and the *elective office* is to be filled by appointment, the *City Clerk* shall publish within five calendar days of the date of vacancy, as determined by Section 27.0703(b), the following notice in a paper of general circulation within the City of San Diego:

A vacancy exists in the office of (Councilmember, 1st through 8th District). Interested applicants may obtain information and forms at the office of the *City Clerk*, City Administration Building, 202 C Street, San Diego, California. To be considered, applications shall be returned to the office of the *City Clerk* by close of business, 5:00 p.m. on (insert date fourteen calendar days after the date of the vacancy as determined by Section 27.0703(b)).

- (b) If a vacancy exists or will exist in the office of a *City Council* district by reason of a resignation, the *City Clerk* shall publish within a reasonable time the following notice:

A vacancy exists (or will exist) in the office of (Councilmember, 1st through 8th District) on (date vacancy expected to occur). Interested applicants may obtain information and forms at the office of the *City Clerk*, City Administration Building, 202 C Street, San Diego, California. To be considered, applications shall be returned to the office of the *City Clerk* by close of business, 5:00 p.m. on (insert date of the calendar day before vacancy occurs if at least a fourteen-calendar-day interval exists between publication and date of vacancy; if not, insert date fourteen calendar days after date of publication).

- (c) If a vacancy exists or will exist in the office of the Mayor or City Attorney, and the *City Council* determines that the *elective office* is to be filled by appointment, the *City Clerk* shall publish within five calendar days of the *Council* decision to fill the vacancy by appointment, pursuant to Section 27.0705(a), the following notice in a paper of general circulation within the City of San Diego:

A vacancy exists (or will exist) in the office of (Mayor or City Attorney) on (date vacancy expected to occur). Interested applicants may obtain information and forms at the office of the *City Clerk*, City Administration Building, 202 C Street, San Diego, California. To be considered, applications shall be returned to the office of the *City Clerk* by close of business, 5:00 p.m. on (insert date fourteen calendar

days after the date the City *Council* determines that the *elective office* is to be filled by appointment).
(Amended 9-10-2001 by O-18979 N.S.)

§27.0804 Application Forms and Requirements

Applicants for appointment to *elective office* shall file with the City *Clerk* on or before the date for return of applications as published by the City *Clerk* under Section 27.0803, the following:

- (a) Background information certified by the applicant that it is true and correct, signed under penalty of California perjury laws, disclosing the following:
 - (1) Name.
 - (2) Current address.
 - (3) Length of residence at current address, and address for the past year if other than the current address.
 - (4) Date of birth.
 - (5) Social Security Number for the purpose of conducting the police check.
 - (6) Business or occupation engaged in during the past five years together with address of and dates of service with each such business or occupation.
 - (7) Branch, dates and rank at discharge of military service.
 - (8) Education starting with high school to highest level attained together with the name of each educational institution attended and any degree or diploma received.
 - (9) Statement of Economic Interests Form 700.
- (b) A statement of qualifications not longer than 500 words expressing in the applicant's own words the reasons why the applicant believes he or she is qualified for the office.

- (c) A statement signed under penalty of California perjury laws that the applicant complies with the requirements of Section 27.0119 and has been a resident and *voter* of the City in the case of the Mayor or City Attorney, or of the district in the case of Councilmembers other than the Mayor, for at least thirty calendar days prior to the date of making application for appointment.

(Amended 9-10-2001 by O-18979 N.S.)

§27.0805 Responsibilities of the City Clerk and the Police Department

- (a) The City *Clerk* shall furnish each applicant with a copy of this division and shall advise each applicant of the dates set by the City *Council* for public hearings on the applications.
- (b) The City *Clerk* shall cause a police check to be conducted on each applicant. Each applicant shall be informed by the City *Clerk* that a police check will be made on the applicant and that the City *Council* will be informed of the results thereof.
- (c) The Police Department shall, to the extent permitted by law, access each applicant's criminal history information maintained by the San Diego Police Department or the California Department of Justice, in order to determine whether the applicant is on parole for a felony conviction. The Police Department shall notify the City *Clerk* of the results of this search.

(Retitled from "Responsibilities of the City Clerk" and amended 9-10-2001 by O-18979 N.S.)

§27.0806 Public Hearing

Before any appointment to fill a vacancy in an *elective office* may be made, the City *Council* shall hold at least one public hearing for the purpose of considering the applications for appointment. The hearing shall be scheduled so that the appointment can be made within thirty business days of the date of the vacancy as specified in Section 27.0801. A second public hearing may be held if there are additional questions or if additional time for discussion is needed by the City *Council* prior to making the appointment.

(Amended 9-10-2001 by O-18979 N.S.)

§27.0807 Public Hearing and Appointment

- (a) At the public hearing required by Section 27.0806, each applicant shall be allowed three minutes to make a presentation to the City *Council* in support of the applicant's candidacy for appointment. At the discretion of the presiding

officer, City Councilmembers may ask brief questions for clarification concerning either the presentation or matters contained in the application filed with the City Clerk. Applicants shall also be expected to answer questions from City Councilmembers concerning their candidacy. Such questions may concern but need not be limited to the *candidate's* background, philosophy of government, reasons for seeking appointment, and opinions on relevant municipal issues.

- (b) At the conclusion of the public hearing or at a later meeting, the City Council may adopt a resolution appointing an applicant to fill the vacancy.
(*“Public Hearing and Appointment” renumbered from Sec. 27.3106 and amended 7-26-1999 by O-18664 N.S.*)

§27.0808 Optional Second Public Hearing and Appointment

- (a) If, during the public hearing required by Section 27.0806, the City Council determines that there are too many *candidates* to consider in a single public hearing, the procedures outlined in Section 27.0808 shall be used.
- (b) Before the conclusion of the first public hearing, the City Council shall select at least four but no more than six applicants to appear at the second public hearing. After the selection is made, the presiding officer shall announce the names of the applicants invited to appear at the second public hearing and set the date and time of such hearing.
- (c) At the second public hearing, applicants invited to appear shall be expected to answer questions from City Councilmembers concerning their candidacy. Such questions may concern but need not be limited to the *candidate's* background, philosophy of government, reasons for seeking appointment, and opinions on relevant municipal issues.
- (d) At the conclusion of the second public hearing the City Council may then, or at a later meeting, adopt a resolution appointing an applicant to fill the vacancy.
(*“Optional Second Public Hearing and Appointment” renumbered from Sec. 27.3107 and amended 7-26-1999 by O-18664 N.S.*)

§27.0809 Election of Official Following Appointment

- (a) Any individual appointed by the City Council to fill a vacant City Council District seat shall not be eligible to run for that office for the next succeeding term.

- (b) Any individual appointed by the City *Council* to fill a vacant seat in the office of the Mayor or office of the City Attorney shall be eligible to run for that office for the next succeeding term.

(Retitled from "Election of Appointed Councilmember Prohibited" and amended 9-10-2001 by O-18979 N.S.)